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David Holzer

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EXAMINER

ENGLAND, DAVID E

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/884,741
Filing Date: June 18, 2001
Appellant(s): HOLZER, DAVID

Alan Heimlich Reg. No. 48808
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/03/2010 appealing from the Office action mailed 06/30/2009.

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(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1 – 30 are pending and stand Rejected as of Final Office Action Filed 06/30/2010.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN

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REJECTIONS.” New grounds of rejection (if any) are provided under the subheading “NEW GROUNDS OF REJECTION.”

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant’s brief.

(8) Evidence Relied Upon

6636259	Anderson et al.	10-2003
6353848	Morris	3-2002
6662218	Mighdoll et al.	12-2003
6697806	Cook et al.	2-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 6 – 9, 13 – 17 and 19 – 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al. (6636259) (hereinafter Anderson).

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Referencing claim 1, as closely interpreted by the Examiner, Anderson teaches a method of managing a relationship between a device and a service provider comprising:

receiving at a service aggregator a first information from the device, the service aggregator having information about one or more service providers and the service aggregator configured to select a specific service provider from the one or more service providers for the device based on the first information, (e.g. col. 2, line 59 – col. 3, line 14 & col. 4, lines 9 – 37 & col. 9, line 25 – col. 10, lines 36, automatic and gateway server 18); and transmitting a second information from the service aggregator to the device directing the device to communicate with the specific service provider, the second information being based on the first information received from the device, wherein the first information is sent automatically from the device to the service aggregator, (e.g. col. 2, line 59 – col. 3, line 14 & col. 4, lines 9 – 37 & col. 9, line 25 – col. 10, lines 36).

Referencing claim 2, as closely interpreted by the Examiner, Anderson teaches comprising the service aggregator communicating information about the device to the specific service provider, (e.g. col. 10, lines 54 – 63).

Referencing claim 4, as closely interpreted by the Examiner, Anderson teaches the service aggregator communicating user options to the device, (e.g. col. 10, lines 54 – 63).

Referencing claim 6, as closely interpreted by the Examiner, Anderson teaches the first information from the device is input by a user, (e.g. col. 10, lines 54 – 63).

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Referencing claim 7, as closely interpreted by the Examiner, Anderson teaches receiving from the specific service provider an aggregation of choices for the device, (e.g. col. 10, lines 54 – 63).

Referencing claim 8, as closely interpreted by the Examiner, Anderson teaches the choices are displayed on the device and a user may select a specific choice, (e.g. col. 10, lines 54 – 63).

Referencing claim 13, as closely interpreted by the Examiner, Anderson teaches a method of managing a relationship between a device and a service provider, comprising:
initially receiving at a service aggregator connected to a network first information from the device when the device is connected to the network, the service aggregator having information about one or more service providers and the service aggregator configured to select a specific service provider from the one or more service providers for the device based on the first information, (e.g. col. 2, line 59 – col. 3, line 14 & col. 4, lines 9 – 37 & col. 9, line 25 – col. 10, lines 36);

secondly transmitting a second information from the service aggregator to the device directing the device to communicate with the specific service provider, the second information being based on the first information received from the device, wherein the first information is sent automatically from the device to the service aggregator, (e.g. col. 2, line 59 – col. 3, line 14 & col. 4, lines 9 – 37 & col. 9, line 25 – col. 10, lines 36);

determining a new connection event from the device, (e.g. col. 10, lines 38 – 53);

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sending a new connection message to the device upon said determining said new connection event from said device, (e.g. col. 10, lines 54 – 64);

determining and optionally updating the device upon said sending said new connection message to the device, (e.g. col. 10, lines 30 – 37);

sending messages to the device upon said determining and optionally updating the device, (e.g. col. 10, lines 38 – 53);

receiving user input from the device upon said sending messages to the device, (e.g. col. 10, lines 15 – 29); and

configuring the device upon said receiving user input from the device, (e.g. col. 10, lines 38 – 53).

As per claim 9, as closely interpreted by the Examiner, Anderson teaches the choices are account choices, (e.g. col. 10, lines 54 – 63).

Referencing claim 14, as closely interpreted by the Examiner, Anderson teaches updating the device comprises updating the device's memory, (e.g. col. 10, lines 38 – 53).

Referencing claim 15, as closely interpreted by the Examiner, Anderson teaches determining a service provider, (e.g. col. 10, lines 30 – 37); and

transferring to the device communication information about the service provider, (e.g. col. 10, lines 38 – 53).

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Referencing claim 16, as closely interpreted by the Examiner, Anderson teaches transferring to the device communication information about the service provider further comprises instructing the device to establish a connection with the service provider, (e.g. col. 10, lines 38 – 53).

Claim 17 is rejected for similar reasons stated in claim 13.

Claims 19 – 28 are rejected for similar reasons stated above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Morris (6353848).

As per claim 3, Anderson does not specifically teach the service aggregator communicating update information to the device. Morris teaches the service aggregator communicating update information to the device, (e.g. col. 14, lines 12 – 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Morris with Anderson because it would be more convenient for a system to download the update information that could

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enable a user to use software that could give a device added features on said device in a network than having the device separately install the software from a portable disk, (i.e. CD ROM).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Mighdoll et al. (6662218) (hereinafter Mighdoll).

As per claim 5, as closely interpreted by the Examiner, Anderson does not specifically teach the specific service provider communicating update information to the device. Mighdoll teaches the specific service provider communicating update information to the device, (e.g. col. 16, lines 38 – 56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Mighdoll with Anderson because of similar reasons stated above.

Claims 10 – 12, 18, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6636259) in further view of Cook et al. (6697806) (hereinafter Cook).

As per claim 10, as closely interpreted by the Examiner, Anderson teaches the first information received at the service aggregator is selected from the group consisting of device attribute information, account information, type of device information, application information, (e.g. col. 10, lines 54 – 64), branding information, device serial number information, (e.g. col. 7, lines 13 – 20), but does not specifically teach and last time used information.

Cook teaches last time used information, (e.g. col. 10, lines 30 – 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Cook with

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Anderson because providing device information to a central location would give the system information to bill the user for services rendered.

As per claim 11, as closely interpreted by the Examiner, Anderson teaches the branding information is hard coded in the device, (e.g. col. 7, lines 13 – 20).

As per claim 12, as closely interpreted by the Examiner, Anderson teaches the account information is input by a user, (e.g. col. 7, lines 13 – 20).

Claims 18 are rejected for similar reasons as stated above.

As per claim 29, as closely interpreted by the Examiner, Anderson does not specifically teach determining a sufficiency of a payment from a payor. Cook teaches determining a sufficiency of a payment from a payor, (e.g. col. 21, lines 11 – 29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Cook with Anderson because of similar reasons stated above. Furthermore, it would be more beneficial for a system to keep track of services rendered by a service provider and to keep users that are delinquent on payments, out of the system until such payment is received for services rendered.

As per claim 30, as closely interpreted by the Examiner, Anderson teaches the payor is selected from the group consisting of a subscriber, a non-subscriber, a sponsor, and an advertiser, (e.g. col. 4, lines 10 – 24).

(10) Response to Argument

In the Arguments, Appellant argues in substance that the prior art of Anderson does not teach the claimed aggregator. Appellant states Anderson's provider is not the same as the claimed aggregator and that the definition itself, aggregator vs. provider, is not the same, i.e., an aggregator brings together services where as provider supplies a service.

As to this argument, Appellant is asked to view Anderson in light of the claim language. The claim language teaches a service aggregator where users communicate to a central point and are redirected to a service. It should be pointed out that the service aggregator **provides a service**, i.e., the service of directing users to a service. This is no different than a gateway of sorts of an ISP, an ISP gateway of sorts is point where a plurality of users must go through to get to other areas of the ISP, i.e., it's an aggregated point of access. The Appellant argues that their aggregator is one that brings together services. This is clearly not claimed in the independent claims. What the claim does teach a center point where users are directed to a service. There is only one service that the "service aggregator" does and that is one of directing users to another service. This argument would make one believe that multiple services are located at their "service aggregator", which is false. Even if the claims taught "aggregating service", Anderson teaches their central gateway providing a service to multiple users wherein each user can have different levels of services, e.g., Figure 1 & col. 5, lines 13 et seq., col. 7, lines 25 et seq., providing different photo-sharing websites tailored to those different users. Furthermore,

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Anderson teaches providing different ISPs to the user depending on their profile, e.g., col. 10, lines 15 – 63. It should also be taken into consideration that the service provider is not specifically described as hardware or software and can be interpreted as different services the gateway system can provide to the users that is specific to their profile.

In the Arguments, Appellant argues in substance, page 14 of arguments with regard to claim 27, that the prior art does not teach “receiving information from a device automatically when the device is connected to a network”, since it states that the prior art in Anderson teaches having to push a “Send” on a camera before information is sent, col. 9, lines 60 – 67. This argument is also stated for claim 19 and other independent claims that have this similar limitation.

As to this argument, Appellant is asked to view the paragraph right above their cited area, which clearly states that that the “process will be described in terms of automatically establishing Internet accounts for a digital camera without requiring the user to enter information”. One can interpret the user pressing the “send” button as establishing a connection and that after a connection is established, information is automatically sent to the gateway about the user and logging into the gateway to provide different services based on the specific user profile, col. 10, lines 15 – 63. It is noted that the claim limitation does not state that the connection is made automatically and that information is sent when the device is connected but does not state what type(s) of information are sent, i.e., the password is sent when the user connects to the gateway and the photos are sent automatically after the connection is established. Further support is found

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in col. 3, lines 40 – 49, “such that when the cameras 14 connect to the Internet, the cameras 14 automatically upload their images to the photo-sharing website of the corresponding entity.” This clearly reads on the limitation of “receiving information from a device automatically when the device is connected to a network.” Furthermore, entity ID information, as stated in col. 3, lines 50 et seq., col. 5, lines 14 et seq. & col. 6, lines 7 – 65, clearly show information about the device and what is used to access information from the system. This also encompasses the teachings of claim 1.

In the Arguments, Appellant argues in substance that the prior art does not teach the limitation of, “determining if the device has access rights to a service provider after said receiving information from said device.”

As to this argument, Appellant’s arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Regardless, to further prosecution, it can be seen in column 4, line 9 et seq., the user of the cameras 14 transmits entity ID information 28 identifying its controlling entity 12 to the photo-sharing service 16. This is interpreted as the user sending information about themselves much like a user name and password and determining if the user name and password is correct. The prior art teaches the entity ID that is sent after connecting and the gateway determines which service section to allow the user to edit their photos, see figure 1.

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In the Arguments, Appellant argues in substance that the prior art does not teach “a relationship manager for associating the plurality of devices when connected to the network with the plurality of service providers.”

As to this argument, col. 5, line 14 clearly shows the service having the ability to associate different types of devices to their designated services provider, i.e., their specific webpage that provides their photo-sharing service. The entity ID aids in connecting the specific device to their specific website. It should be noted that the devices each have a specific service providing website that is specific to that device, also see col. 7, lines 25 et seq. for what each device can receive different service levels specifically provided to that device, i.e., this would not interfere with other devices accessing their specific provided service.

The arguments stated in pages 16 – 18 are similar to what is stated above and is therefore addressed similarly above.

In the Arguments, Appellant argues in substance that the prior art does not teach the limitation of claim 2, the service aggregator communicating information about the device to the specific service provider.

As to this argument, as can be seen in col. 10, lines 15 et seq., a user is sent to a default ISP if this is the first time a user is connected to the gateway and is sent a new ISP if needed, i.e., col. 10, lines 37. Other information that is sent is a combination of the camera’s serial number and the make and model number of the camera, i.e., col. 10, lines 30 et seq. Further into column 10

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one can see that the new ISP to retrieve information specific to that user. Furthermore, the user is given a URL for their specific website that further provides a specific service as stated above.

Furthermore, the new information is forwarded to a database and stored for subsequent user retrieval; also see Figure 1 in context to column 10. Column 11, lines 20 et seq. further teach steps that are taken to establish connection with a new ISP and the information sent to the server when the user is connecting to the network. Column 13, lines 15 et seq. teach the actions used to set up and use the account information that, in light of other sections of the specification, read on the steps of the claim language.

Other argument stated in pages 20 – 23 are similar in nature to what is argued above and the teachings can be found in the same cited area. More specifically, columns 4, 7 and 10 as described above, teach the limitations argued in the Appellants arguments stated in pages 20 – 23 since the claim language is substantially the same as claims 1, 2, 19 and 27.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/David E. England/

Primary Examiner, Art Unit 2443

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